

Town of



AMHERST

Massachusetts

TOWN HALL
4 Boltwood Avenue
Amherst, MA 01002-2351

Conservation Department
(413) 259-3045
(413) 259-2410 [Fax]
conservation@amherstma.gov

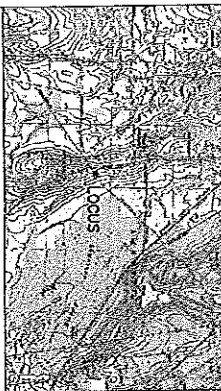
TO: SELECT BOARD
FROM: DAVID ZIOMEK, DIRECTOR OF CONSERVATION AND DEVELOPMENT
DATE: APRIL 10, 2009
RE: TIETJEN PROJECT – SOUTH EAST STREET

The Tietjen Conservation Project is ready to close as previously approved by the CPAC and Town Meeting. The final steps in the process involve the acceptance of an easement for public access over the APR parcel (see LOT 1) and acceptance of a gift of land (PARCEL A) on the enclosed map of the project area.

The Conservation Commission has voted to accept both the easement for the trail and the gift of land for conservation purposes. This land will add to our holdings in Lawrence Swamp.

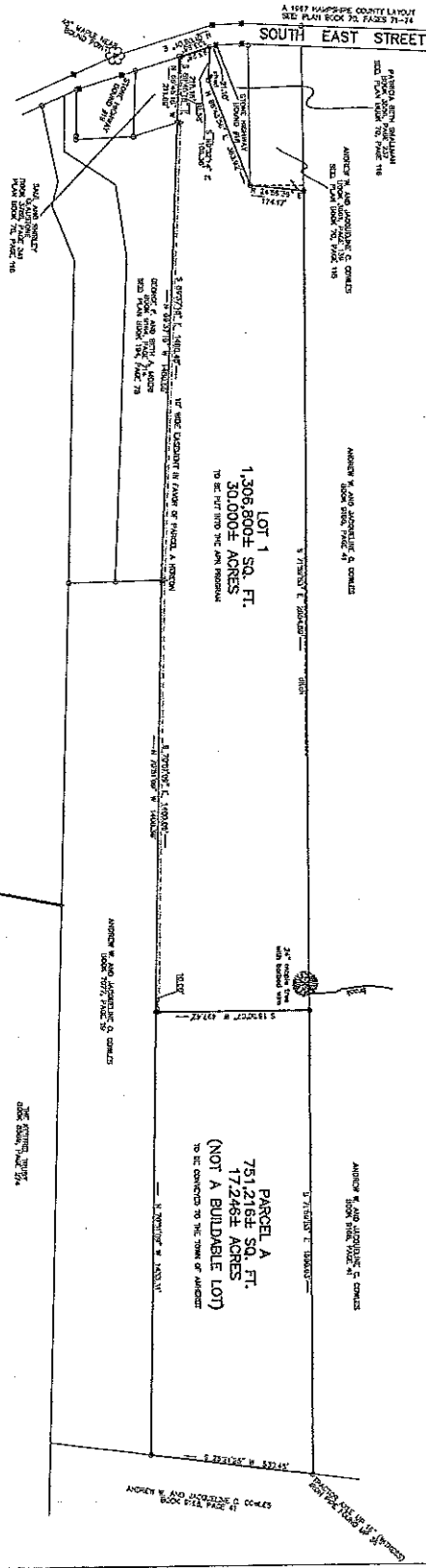
The enclosed deed, easement and accompanying documents have been reviewed and approved by Town Counsel.

Thank you.



APPROVAL UNDER THE SUBDIVISION CONTROL ACT NOT REQUIRED
PLANNING BOARD
AMESBURY, MASSACHUSETTS
DATE: 2/2/00

LOUIS REFERENCE:
RICHARD D. AND LOUISE M. TIETJEN
47.246± ACRES



LEGEND
ROAD
IRON PIN
IRON STAKE
CONCRETE BUILDING
DRAINAGE DITCH

NOTICE: THIS MAP WAS PREPARED BY THE TOWN OF AMESBURY, MASSACHUSETTS, IN ACCORDANCE WITH THE SUBDIVISION CONTROL ACT, CHAPTER 266A, MASS. REGS. 800.00-800.05. THE TOWN OF AMESBURY, MASSACHUSETTS, IS NOT RESPONSIBLE FOR THE ACCURACY OF THE INFORMATION CONTAINED HEREIN.



"SUBDIVISION APPROVAL NOT REQUIRED"
TOWN OF AMESBURY, MASSACHUSETTS
RICHARD D. AND LOUISE M. TIETJEN

SCALE: 1"=100'
JANUARY 13, 2000
TOWN OF AMESBURY, MASSACHUSETTS
TOWN ENGINEER: [Signature]
TOWN CLERK: [Signature]

GRANT OF TRAIL EASEMENT

Richard D. Tietjen and Louise M. Tietjen, Co-Trustees of the RICHARD D. TIETJEN REVOCABLE TRUST, dated May 18, 2007, of 69 Cromwell Place, Old Saybrook, Connecticut (together with their successors, "Grantor"), for consideration paid in full of One Dollar (\$1.00), the receipt and sufficiency of which is hereby acknowledged, GRANT, with quitclaim covenants, to THE TOWN OF AMHERST, a Massachusetts municipal corporation having an address at 4 Boltwood Avenue, Amherst, Massachusetts 01002, acting by and through its Conservation Commission (together with its successors and permitted assigns, "Grantee"), the perpetual right and exclusive easement to use the parcel of land shown as "10' Wide Easement in Favor of Parcel A Hereon" (the "Easement Area") on a plan of land entitled, "'Subdivision Approval Not Required' plan of land in Amherst, Massachusetts, prepared for Richard D. and Louise M. Tietjen", Scale 1"=100'; dated January 12, 2008, prepared by Harold L. Eaton and Associates, Inc., registered professional land surveyors, 235 Russell Street, Hadley, Massachusetts, recorded herewith (the "Plan"), and as more particularly bounded and described on Exhibit A and incorporated herein, for the following purposes:

(i) to cross and re-cross the Easement Area for access to and from the parcel of land shown as "Parcel A" ("Parcel A") on the Plan, which Parcel A is conveyed to the Grantee by deed recorded of even date herewith,

(ii) to construct, operate, relocate, and/or maintain an unpaved trail within the Easement Area, provided that said trail shall not exceed ten feet (10') in width at any point (as said trail may be constructed, located, relocated and/or reduced in width from time to time to accommodate the geography of the terrain, the "Trail"), and

(iii) to use, and to allow members of the public to use, said Easement Area and Trail for access and passive recreational purposes, all on the terms and conditions set forth herein (collectively, this "Easement").

1. **PURPOSE.** The primary purpose of this Easement is to provide permanent, passive and non-motorized recreational use of the Easement Area by the public and for access to Parcel A.

2. PERMITTED USES.

A. **Public Use.** Grantor and Grantee acknowledge and agree that the Easement Area may be used by the public solely for passive and non-motorized recreational purposes, including, but not limited to, walking, jogging, non-motorized bicycling, dog walking, cross-country skiing, snowshoeing and picnicking. Notwithstanding the perpetual nature of this Easement, Grantee shall have the right to restrict the public use of the Easement Area by means of reasonable rules and regulations and the right to prohibit public access to the Easement Area temporarily to ensure public safety and/or to facilitate Grantee's Trail construction, maintenance and/or relocation.

B. Grantee's Use. Grantee shall have the right (i) to cross and re-cross the Easement Area, (ii) to clear, grade, construct (including, if necessary, the construction of retaining walls, planking and bridges, or barriers to prevent motorized access for the safe use and/or support of the Trail or for the crossing of steep or wet areas), use, operate, inspect, relocate, and forever maintain the Trail within the Easement Area by motorized and, to the extent necessary, non-motorized means, and to do all other acts incidental to the foregoing and/or necessary to exercise its rights and fulfill its obligations hereunder, (iii) to install, maintain and/or replace signage, stone or wooden trail boundary markers, benches and similar elements intended to enhance the permitted uses of the Easement Area (collectively, "Grantee's Rights").

3. **PROHIBITED USES.** Other than Grantee's Rights and Grantor's Reserved Rights (as defined in Section 4 herein), Grantor and Grantee acknowledge and agree that the following uses of the Easement Area are strictly prohibited: (i) use of the Easement Area at any times other than during seasonal daylight hours, (ii) use of the Easement Area for campfires, overnight camping and/or hunting, (iii) use of the Easement Area by motorized vehicles, except emergency vehicles and/or motorized wheelchairs if required by law.

4. **GRANTOR'S RESERVED RIGHTS.** Notwithstanding anything to the contrary set forth herein, Grantor expressly reserves (i) the right to cross and re-cross the Easement Area by motorized and non-motorized means for all reasonable purposes, including, but not limited to, to access Grantor's adjacent property and to conduct agricultural operations on such adjacent land, provided, however, that Grantor's exercise of these reserved rights shall not unreasonably interfere with the purposes of this Easement, and (ii) upon providing the Town with at least seven (7) days prior written notice thereof, the right to prohibit public access to the Easement Area temporarily to ensure public safety and/or to facilitate agricultural operations on Grantor's adjacent property, provided that Grantor takes reasonable efforts to minimize the period during which such public access is prohibited (collectively, "Grantor's Reserved Rights"). Grantor agrees to repair any damage caused to the Trail as a result of the exercise of the Grantor's Reserved Rights.

5. **GRANTEE'S OBLIGATIONS.** Grantee shall be solely responsible for (i) constructing, operating and/or relocating and/or maintaining the Trail in a reasonably safe and passable condition (such maintenance to include, but not be limited to, trimming limbs and branches, clearing vegetation and removing obstacles that impede safe passage along the Trail), (ii) posting signs within the Easement Area informing the public that the Easement Area is private property and that, in permitting its use by the public without charge, the liability of the landowner is limited by Massachusetts General Laws, Chapter 21, Section 17C, as amended, alerting the public to applicable rules and regulations and acknowledging the role of Grantor and others in securing the Easement, (iii) securing any and all necessary permits relating to Grantee's activities within the Easement Area, and (iv) ensuring that any and all activities performed by Grantee and/or its employees, agents or contractors within the Easement Area are in compliance with all applicable laws.

6. **LIMITATION OF LIABILITY OF GRANTOR.** Pursuant to Massachusetts General Laws, Chapter 21, Section 17C, (or any successor statute) Grantor or its successors shall not be liable for injuries to persons or property sustained by any member of the public who uses this Easement Area in the absence of willful, wanton, or reckless conduct by

Grantor.

7. **EASEMENT RUNS WITH THE LAND.** This Easement shall run with the land, and shall be binding upon Grantor and all those claiming title by, through or under Grantor. This Easement shall be for the benefit of, and appurtenant to, Parcel A, owned by Grantee.

8. **COMPLIANCE WITH EASEMENT.** Grantor and Grantee shall take reasonable steps to periodically inspect the Easement Area to assure compliance with the use and condition of the Easement Area required hereunder. In the event that Grantor or Grantee becomes aware of frequent and continuous prohibited use of the Easement Area or other material event or circumstance of non-compliance with this Easement, that party shall give notice to the other of such prohibited use or noncompliance via certified mail, return receipt requested, and demand corrective action sufficient to abate such event or circumstance of non-compliance and restore the Easement Area to its previous condition. In the event of frequent and continuous prohibited use or material event or circumstance of non-compliance with this Easement not corrected voluntarily within a reasonable time after notice to the other party, either party may request a meeting to develop a plan to remedy the issue. If after good faith discussions at two or more meetings, no management plan is agreed to by the parties with respect to such prohibited use or event or circumstance of non-compliance, the parties shall retain a mediator experienced in mediation within Hampshire County to assist them to create a management plan. The costs of such mediation to be borne equally by the parties.

9. **AMENDMENT.** This instrument constitutes the entire agreement between Grantor and Grantee pertaining to the subject matter contained in it and supersedes all prior and contemporaneous agreements, representations, and understandings, and it may be amended only by an instrument in writing signed by both parties and recorded in the Hampshire County Registry of Deeds.

[Remainder of page intentionally left blank.]

Witness my hand and seal this _____ day of _____, 2009.

THE RICHARD D. TIETJEN
REVOCABLE TRUST,

By: _____
Richard D. Tietjen, Trustee

By: _____
Louise M. Tietjen, Trustee

STATE OF CONNECTICUT

COUNTY OF _____

On this ____ day of _____, 2009, before me, the undersigned notary public, personally appeared Richard D. Tietjen and Louise M. Tietjen, proved to me through satisfactory evidence of identification, which was _____ of said persons, to be the persons whose names are signed on the preceding or attached document, and acknowledged to me that they signed it voluntarily for its stated purpose as Trustees of the Richard D. Tietjen Revocable Trust.

Notary Public
My commission expires:

Exhibit A
Description of Easement Area

A parcel of land shown as "10' Wide Easement in Favor of Parcel A Hereon" (the "Easement Area") on a plan of land entitled, "'Subdivision Approval Not Required' plan of land in Amherst, Massachusetts, prepared for Richard D. and Louise M. Tietjen", Scale 1"=100'; dated January 12, 2008, prepared by Harold L. Eaton and Associates, Inc., registered professional land surveyors, 235 Russell Street, Hadley, Massachusetts, recorded herewith.

Said easement is bounded and described as follows:

Beginning at a found iron pin set in the easterly sideline of South East Street, said iron pin marking the northwesterly corner of land now or formerly of Saul and Shirley Gladstone and the southwesterly corner of Lot 1 as shown on the hereinbefore mentioned plan; thence

- S. 69° 45' 18" E. along land now or formerly of Saul and Shirley Gladstone, a distance of 211.69 feet to a found iron pin; thence
- S. 69° 37' 16" E. along land now or formerly of George F. and Beth A. Moeri, a distance of 1,480.55 feet to a found iron pin; thence
- S. 70° 51' 09" E. along land now or formerly of Andrew W. and Jacqueline C. Cowles, a distance of 1,400.36 feet to an iron pin to be set; thence
- N. 18° 00' 07" E. along Parcel A as shown on said plan, a distance of 10.00 feet to a point; thence
- N. 70° 51' 09" W. a distance of 1,400.05 feet to a point; thence
- N. 69° 37' 16" W. a distance of 1,480.45 feet to a point; thence
- N. 69° 45' 18" W. a distance of 215.16 feet to a point set in the easterly sideline of South East Street; thence
- S. 01° 08' 01" W. along the easterly sideline of South East Street, a distance of 10.58 feet to the found iron pin at the place of beginning.

Being a portion of land described in a deed from Richard D. Tietjen and Louise M. Tietjen to Richard D. Tietjen and Louise M. Tietjen, Co-Trustees of the Richard D. Tietjen Revocable Trust dated May 18, 2007, deed dated June 6, 2007 and recorded in the Hampshire County Registry of Deeds in Book 9158, Page 223.

After Recording Return to:
Shirin Everett, Esq.
Kopelman and Paige, P.C.
101 Arch Street
Boston, 02110

Premises:
Parcel A
South East Street
Amherst, MA

MASSACHUSETTS QUITCLAIM DEED

KNOW ALL BY THESE PRESENTS THAT

Richard D. Tietjen and Louise M. Tietjen, Co-Trustees of the RICHARD D. TIETJEN
REVOCABLE TRUST, dated May 18, 2007, of 69 Cromwell Place, Old Saybrook, Connecticut,

for consideration paid and in full consideration of ONE DOLLAR (\$1.00),

Grant to THE TOWN OF AMHERST, a Massachusetts municipal corporation, acting by and
through its Conservation Commission under the provisions of G.L. c. 40, § 8C, having an
address of 4 Boltwood Avenue, Town Hall, Amherst, Massachusetts, for conservation and
passive recreational purposes,

with quitclaim covenants,

The fee simple interest in and to land in Amherst, Hampshire County, Massachusetts, bounded
and described in Exhibit "A" attached hereto and made a part hereof.

Being a portion of land described in a deed from Richard D. Tietjen and Louise M. Tietjen to
Richard D. Tietjen and Louise M. Tietjen, Co-Trustees of the Richard D. Tietjen Revocable Trust
dated May 18, 2007, deed dated June 6, 2007 and recorded in the Hampshire County Registry
of Deeds in Book 9158, Page 223.

The Town's acceptance of this Deed is attached hereto and incorporated herein.

WITNESS our hands and seals this ____ day of _____, 2009.

RICHARD D. TIETJEN REVOCABLE
TRUST

Richard D. Tietjen, Trustee

Louise M. Tietjen, Trustee

STATE OF CONNECTICUT

_____, ss.

On this ____ day of _____, 2009, before me, the undersigned notary public, personally appeared Richard D. Tietjen and Louise M. Tietjen, proved to me through satisfactory evidence of identification, which was _____, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that they signed it voluntarily for its stated purpose as Co-Trustees of the Richard D. Tietjen Revocable Trust.

Notary Public
My Commission Expires:

EXHIBIT A
(PARCEL A SOUTH EAST STREET)

Parcel A as shown on a plan of land entitled, "'Subdivision Approval Not Required' plan of land in Amherst, Massachusetts, prepared for Richard D. and Louise M. Tietjen, Scale 1"=100'; dated January 12, 2008, Harold L. Eaton and Associates, Inc., registered professional land surveyors, 235 Russell Street, Hadley, Massachusetts, recorded herewith; said Parcel A is more particularly bounded and described as follows:

Beginning at an iron pin to be set at the southwesterly corner of the herein described premises and the southeasterly corner of Lot 1 as shown on said plan; thence

- N. 18° 00' 07" E. along Lot 1 as shown on said plan, a distance of 497.42 feet to an iron pin to be set; thence
- S. 71° 59' 53" E. a distance of 1,500.93 feet to a tractor axle up 16 inches; iron pipe found up 36 inches; thence
- S. 25° 21' 25" W. a distance of 530.45 feet to a found iron pin; thence
- N. 70° 51' 09" W. a distance of 1,433.31 feet to the iron pin to be set at the place of beginning. The last three courses being along land now or formerly of Andrew W. and Jacqueline C. Cowles, containing 17.246 acres of land, more or less.

TRUSTEES' CERTIFICATE PURSUANT TO G.L. c. 184, §35

Name of Trust: Richard D. Tietjen Revocable Trust

Dated: May 18, 2007

We, Richard D. Tietjen and Louise M. Tietjen, Co-Trustees of Richard D. Tietjen Revocable Trust, a written Trust dated May 18, 2007 (the "Trust") between Richard D. Tietjen and Louise M. Tietjen as Settlers and Richard D. Tietjen and Louise M. Tietjen as the original and current Trustees, certify as follows:

1. We are the current and sole Trustees of the Trust;
2. The Trustees of the Trust have authority to act with respect to real estate owned by the Trust, and have full and absolute power under said Trust to convey any interest in real estate and improvements thereon held in said Trust, and no purchaser or third party shall be bound to inquire whether the Trustees have said power or are properly exercising said power or to see to the application of any trust asset paid to the Trustees for a conveyance thereof;
3. There are no facts which constitute conditions precedent to acts by the Trustees or which are in any other manner germane to affairs of the Trust;
4. The Trust has not been amended, revoked or terminated;
5. The beneficiaries of the Trust have duly authorized the Trustees to convey to the Town of Amherst, for nominal consideration, the fee simple interest in the parcel of land owned by the Trust and shown as "Parcel A" on a plan of land entitled "'Subdivision Approval Not Required' plan of land in Amherst, Massachusetts, prepared for Richard D. and Louise M. Tietjen", Scale 1"=100'; dated January 12, 2009, prepared by Harold L. Eaton and Associates, Inc., being a portion of land described in a deed from Richard D. Tietjen and Louise M. Tietjen to Richard D. Tietjen and Louise M. Tietjen, Co-Trustees of the Richard D. Tietjen Revocable Trust dated May 18, 2007, deed dated June 6, 2007 and recorded in the Hampshire County Registry of Deeds in Book 9158, Page 223 (the "Premises");
6. No beneficiary of this Trust is a minor or incompetent and this Trust does not constitute all or substantially all of the assets of any corporate beneficiary. No beneficiary is a personal representative of an estate subject to estate tax liens; and
7. That the actions which we have taken as said Trustees are taken pursuant to and in accordance with the Trust.

Trustees' Certificate Pursuant to M.G.L. c. 184, §35

Name of Trust: Richard D. Tietjen Revocable Trust

Dated: May 18, 2007

We, Richard D. Tietjen and Louise M. Tietjen, Co-Trustees of Richard D. Tietjen Revocable Trust, a written Trust dated May 18, 2007 (the "Trust") between Richard D. Tietjen and Louise M. Tietjen as Settlers and Richard D. Tietjen and Louise M. Tietjen as the original and current Trustees, certify as follows:

- (a) We are the current and sole Trustees of the Trust;
- (b) The Trustees of the Trust have authority to act with respect to real estate owned by the Trust, and have full and absolute power under said Trust to convey any interest in real estate and improvements thereon held in said Trust, and no purchaser or third party shall be bound to inquire whether the Trustees have said power or are properly exercising said power or to see to the application of any trust asset paid to the Trustees for a conveyance thereof;
- (c) There are no facts which constitute conditions precedent to acts by the Trustees or which are in any other manner germane to affairs of the Trust;
- (d) The Trust has not been amended, revoked or terminated;
- (e) The beneficiaries of the Trust have duly authorized the Trustees to convey to the Town of Amherst, for nominal consideration, a permanent easement in a parcel of land shown as "10' Wide Easement in Favor of Parcel A Hereon" on a plan of land entitled "'Subdivision Approval Not Required' plan of land in Amherst, Massachusetts, prepared for Richard D. and Louise M. Tietjen", Scale 1"=100'; dated January 12, 2009, prepared by Harold L. Eaton and Associates, Inc., being a portion of land described in a deed from Richard D. Tietjen and Louise M. Tietjen to Richard D. Tietjen and Louise M. Tietjen, Co-Trustees of the Richard D. Tietjen Revocable Trust dated May 18, 2007, deed dated June 6, 2007 and recorded in the Hampshire County Registry of Deeds in Book 9158, Page 223;
- (f) No beneficiary of this Trust is a minor or incompetent and this Trust does not constitute all or substantially all of the assets of any corporate beneficiary. No beneficiary is a personal representative of an estate subject to estate tax liens; and
- (g) That the actions which we have taken as said Trustees are taken pursuant to and in accordance with the Trust.

ACCEPTANCE

The Town of Amherst, acting by and through its Conservation Commission, pursuant to the authority granted to said Commission under G.L. c.40, § 8C, hereby accepts the foregoing Grant of Trail Easement from Richard D. Tietjen and Louise M. Tietjen, Co-Trustees of the Richard D. Tietjen Revocable Trust, on this second day of April, 2009.

TOWN OF AMHERST

By its Conservation Commission

Christal L. Henin

Etta L. Henin

James E. Scott

Brian Anger

Harvey D. Allen

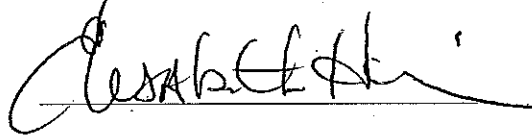
Approved by
TOWN OF AMHERST
Select Board

ACCEPTANCE

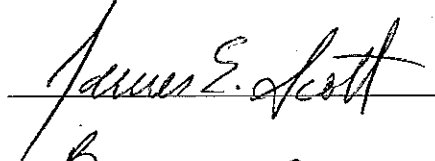
The Town of Amherst, acting by and through its Conservation Commission, pursuant to the authority granted to said Commission under G.L. c.40, § 8C, hereby accepts the foregoing Deed from Richard D. Tietjen and Louise M. Tietjen, Co-Trustees of the Richard D. Tietjen Revocable Trust, on this second day of April, 2009.

TOWN OF AMHERST

By its Conservation Commission

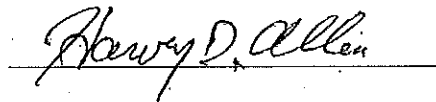


Robert H. Stein



James E. Scott

Brian A. Guss



Henry D. Allen

Approved by
TOWN OF AMHERST
Select Board
